# TIME STANDARDS MAKE IMPACT

In 1984, Idaho became the first state to adopt national time standards to reduce unnecessary delay. Those time standards (see inset) serve as guidelines for judges, lawyers and litigants to assist them in determining the length of time it should take to conclude a case in the trial courts. And, it is apparent that those time standards are beginning to change attitudes and reduce delay.

A number of trial judges have adopted procedures to limit continuances, and more are experimenting with pretrial settlement conferences or status conferences. Unassigned cases, once a calendar management problem, largely have disappeared. And trial court administrators are being furnished with monthly "hit lists" of older cases which should be brought to conclusion.

During 1985, the Idaho trial courts continued to meet, on the average, the time standards in all major case categories. Emphasis for next year will be on reducing the percentage of cases which exceed the standard.

## Child Support Standards

In 1985, Idaho adopted a time standard for child support enforcement cases: petitions seeking enforcement of child support payments should be tried within 60 days and finally disposed within 90 days from filing. While support enforcement delays exist in prosecutorial stages in some counties, the trial courts have committed themselves to meeting this important time guideline in 1986.

## IDAHO TIME STANDARDS

| TYPE OF CASE | | RECOMMENDATION |
|---|---|---|
| Civil | | |
| | District Court: | 540 days from complaint |
| | Magistrate: (except probate) | 180 days from complaint |
| Child Support Enforcement: | | Trial within 60 days from filing; disposition within 90 days |
| Felonies: | | 180 days from first appearance in magistrate division |
| | Magistrate: | Bind over order within 30 days from first appearance |
| | District Court: | 150 days from first appearance in district court |
| Misdemeanors: | | 90 days from first appearance |
| Domestic Relations: | | 180 days from complaint |
| Juvenile | | |
| | Detention Hearing: | Within 24 hours excluding holidays |
| | Adjudicatory Hearing: | 15 days from petition |
| | Disposition Hearing: | Within 45 days of adjudicatory hearing |
| Small Claims: | | 60 days from complaint |

## IDAHO'S MOST PRODUCTIVE DISTRICT JUDGE

Moving large numbers of cases quickly is not an easy task in today's judicial world, where legal issues are becoming more complex, and where interim motions can consume days of legal research. But resolving large numbers of disputes quickly can mean that parents won't have to wait as long for a child custody decision, or witnesses' memories will not fade in a criminal prosecution. Productivity and quality are not mutually exclusive.

During calendar year 1985, one judge resolved more complex disputes more quickly than any other. Based on the number of filings, dispositions, and the average age of pending cases, Idaho's most productive district judge for 1985 was Fifth District Judge Daniel C. Hurlbutt, Jr., of Twin Falls County.

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*Judicial Watchdog Works Quietly*

# REMOVAL INQUIRY SPOTLIGHTS JUDICIAL COUNCIL

A reported investigation of a district judge in Caldwell in 1985 focused attention on the quiet watchdog of the judiciary --the Idaho Judicial Council. Although the judge involved resigned before a scheduled hearing to consider formal disciplinary charges, nonetheless, the Council's role in judicial discipline obtained greater visibility.

The Idaho Judicial Council is an independent council within the judicial branch, which plays a major role in both the selection and discipline of Supreme Court Justices, Court of Appeals Judges, and district judges. (Magistrate judges are selected by local district magistrate commissions, and disciplined by district judges.) The Council nominates to the Governor persons for appointment to vacancies in the Supreme Court, Court of Appeals and District Courts, and it may make recommendations to the Supreme Court for removal, discipline and retirement of judges on those courts.

The function of the Judicial Council is important to the court system and the legal process, because, as noted in the Council's most recent report to the Legislature: "Justice is administered by people, not by systems. The quality of justice turns, in full measure, upon the competence, fairness, and diligence of the human being in the black robe."

The Judicial Council consists of 7 members: the Chief Justice of the Supreme Court, who is chairman; a district court judge and two lawyers appointed by the governing board of the Idaho Bar with the consent of the state Senate; and three non-attorney members appointed by the Governor with the consent of the Senate. Members are appointed with consideration for geographical representation, and no more than 3 members can be from the same political party.

The Council also periodically conducts studies resulting in recommendations for improvements of the judicial system, and makes reports to the Supreme Court and Legislature. For the last several years, the Council has been holding "town meetings" throughout the state to obtain information about the strengths and weaknesses of the court system.

## 1985 Activities

During 1985, the Judicial Council helped select three district judges to fill vacancies when judges retired or resigned. In all, 24 lawyers applied for the three vacancies, and in each case, the Council sent 4 qualified nominees to the Governor for final appointment.

The Council received 14 complaints concerning Idaho judges in 1985. Each complaint was reviewed, and in most cases found to be without substance. Only one complaint resulted in formal disciplinary charges being filed against a judge.

## Public Comment

The Judicial Council invites public participation in the judicial selection process. The Council interviews of applicants for judicial positions are open to the public, and citizens are encouraged to make their opinions known on judicial candidates. While Council disciplinary investigations are confidential, the Council will recommend to the 1986 Legislature that the law be amended to allow the Council to comment publicly on whether an investigation is underway.

Current members of the Idaho Judicial Council are: Chief Justice Charles R. Donaldson, Boise; District Judge Arnold Beebe, Blackfoot; Joseph D. McCollum, Jr., Boise; Sue Reents, Boise; Pat Woodworth, American Falls; Mary Hartung, Payette; Michael E. McNichols, Lewiston. Boise Lawyer Robert Hamlin is Executive Director of the Council.

## HOW JUDGES ARE SELECTED

**Justices, Court of Appeals Judges and District Judges**

When vacancy occurs, Judicial Council nominates from two to four names to Governor. Governor makes final appointment.

Retained by contested, non-partisan election in primary.

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**Magistrate Judges**

Appointed for 18 months by district magistrates commissions composed of county commissioners, mayors, lay citizens and two (non-voting) lawyers.

Retained through "yes" or "no" vote on record in general election, every four years.

## HOW JUDGES ARE DISCIPLINED

**Justices, Court of Appeals Judges and District Judges**

Idaho Judicial Council investigates complaints and recommends removal, discipline or retirement to Supreme Court. Idaho Supreme Court may remove or discipline judge.

Complainants can contact: Robert Hamlin, Executive Director, 344-8474.

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**Magistrate Judges**

During first 18 months, district magistrates commission may remove without cause; thereafter, district judges sitting as group can remove only for cause.

Complainants can contact: Administrative district judge for judicial district.

## JUDICIAL COUNCIL AT A GLANCE

**7 Members:**
**Chief Justice, Chairman**
**3 Attorneys (one of whom must be a district judge)**
**--Appointed by Board of Commissioners of Idaho State Bar with consent of Senate.**
**3 Non-Attorneys**
**--Appointed by Governor with advice and consent of Senate.**

**Terms: 6 years, staggered terms.**

**Duties: (1) Conducts studies and makes recommendations to Legislature and Supreme Court.**
**(2) Recommends appointments to Governor to fill vacancies.**
**(3) Recommends discipline, removal or retirement of Justices and Judges.**

## IDAHO APPELLATE HANDBOOK

For the first time, Idaho lawyers have a single authoritative reference source for state and federal appellate practice.

Charles R. Donaldson, Chief Justice of the Idaho Supreme Court, has said, "The Idaho Appellate Handbook should prove to be an invaluable guide to appellate practice for Idaho lawyers, not only to the occasional practitioner of appellate advocacy but also to those lawyers who regularly appear in the appellate courts."

The Idaho Appellate Handbook is available through the Idaho Law Foundation at a cost of $125.00. To order an Appellate Handbook, write the Idaho Law Foundation, P.O. Box 895, Boise, ID 83701.

*Video Orientation Recommended*

# COMMITTEE RECOMMENDS NEW JURY STANDARDS

Each year, approximately 5% of our state's population is called for jury service, and many Idaho citizens derive their impression of the legal system from their jury experience. To help improve the service of courts to the public, Chief Justice Charles R. Donaldson in August, 1984, appointed two statewide committees composed of judges, lawyers, and other court and county officials, to study jury usage and management practices in Idaho, and to recommend standards.

During their deliberations, the committees compared present Idaho statutes, Supreme Court rules, and local practices with the ABA Jury Usage and Management Standards approved by the ABA House of Delegates in February, 1983. The ABA Jury Usage and Management Standards, a total of nineteen in number, contain standards relating to selection of prospective jurors, standards relating to selection of a particular jury, and standards relating to juror performance and deliberations.

The committees submitted their reports to the Supreme Court in February, 1985, recommending that most of the ABA Standards be adopted. While Idaho already meets most standards, the Supreme Court accepted changes designed to make better use of the time of citizens called to jury service, and streamline exemptions and deferrals of jury service.

**Jury Video**

Citizens reporting for jury duty often are bewildered, and sometimes nervous about the possibility of participating in the drama of a courtroom trial. Sometimes jurors resent the personal sacrifices occasioned by jury service. To help jurors understand the court system and appreciate the value of their service, the Jury Standards Committee helped to develop a videotape orientation program for jurors. The new film, "Jury Duty! Why Me?," will be distributed to all 44 counties in 1986, and will become part of the orientation program for all citizens called for jury service in Idaho.

## DISTRICT JUDGE: ELECTRONIC RECORDING WORKS!

When District Judge William H. Woodland circuit rides to rural counties in the Sixth Judicial District, he takes along a recording machine, not a court reporter. It's part of an experiment to determine whether electronic recording equipment can provide a satisfactory record in the district court. After almost a year of experience, the verdict is in: electronic recording works, and it saves money.

Judge Woodland began the experiment in April of 1985, when his former court reporter retired. With sophisticated multitrack recording and playback equipment purchased by the Administrative Office of the Courts, Woodland began recording all court proceedings. For court and jury trials, he hired a free-lance court reporter, using the electronic equipment as backup. On some occasions, attorneys stipulated to the use of recording equipment as an alternative to a live court reporter.

When a transcript of a court proceeding was needed and a court reporter had not been present, a duplicate electronic tape was prepared, sent to a qualified typist, and the written transcript was returned within a few days. Woodland found the quality of the transcript to be, "Not only acceptable, but of very high quality."

Judge Woodland's experiment is saving money: the cost of free-lance reporter services have been minimal; and the salary savings from not hiring a full-time reporter paid for the initial cost of the recording equipment in the first six months.

Judge Woodland plans to continue use of electronic recording on a permanent basis. "It does the job, and it saves money," says the Judge, "And the taxpayers sure can use some relief."

# JUDGE-CLERK BATTLE . . .

(Continued from Page 1)

Special Masters to recommend findings and a solution, and a decision is expected in the spring of 1986.

**Trial Court Committee Guidelines**

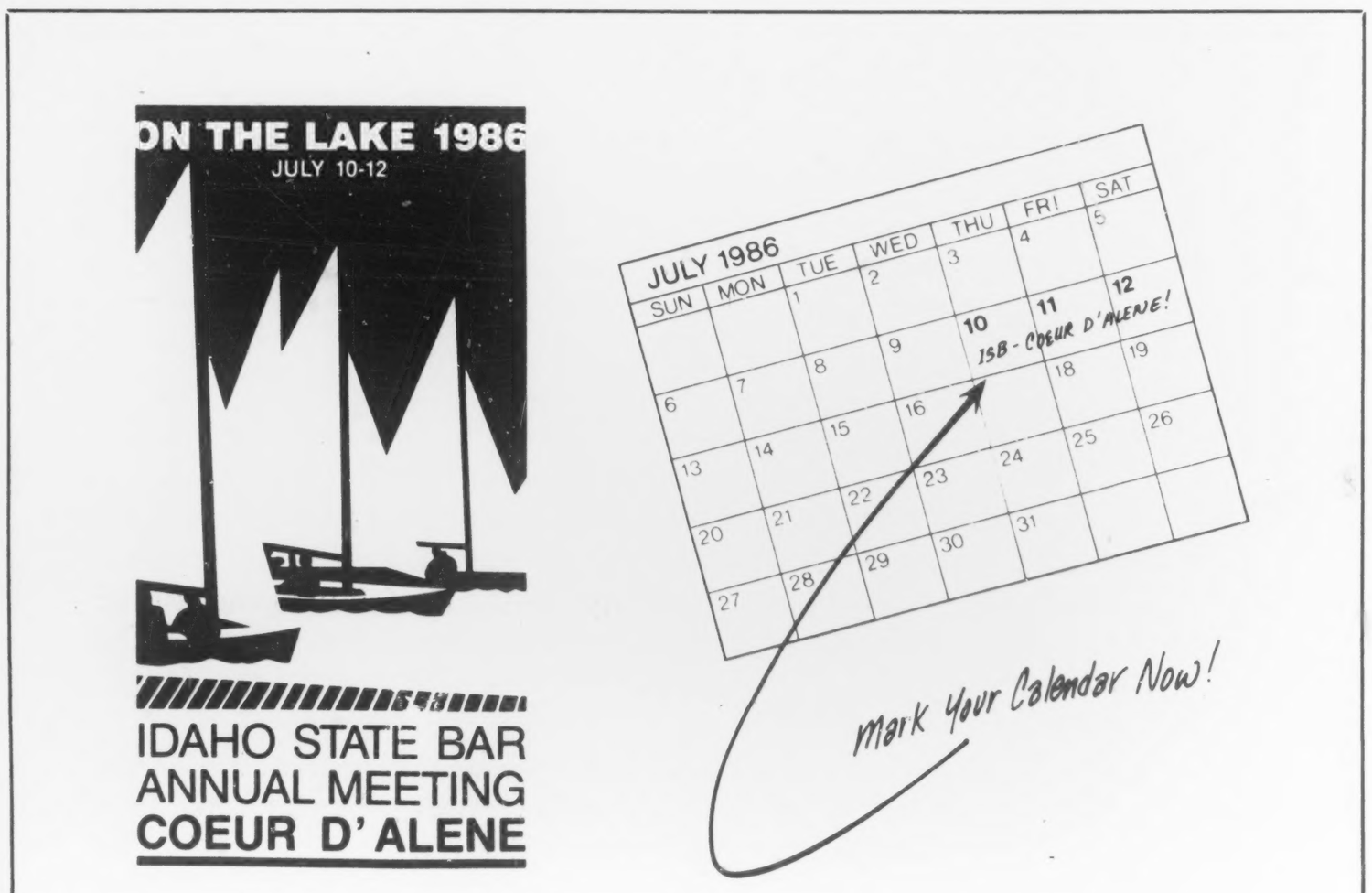
At the request of Chief Justice Donaldson, a special committee of judges, district court clerks, county commissioners, and court administrators, chaired by Idaho Court of Appeals Chief Judge Jesse Walters, worked during 1985 to issue a set of guidelines governing personnel issues in the district court. Those guidelines, while not satisfying the need for a clear definition of legal authority, have provided a blueprint for how courts and county officials can cooperate in dealing with hiring, firing, and supervision of trial court personnel.

One committee recommendation was adopted immediately by Chief Justice Donaldson: he directed all judges to follow personnel practices which guarantee merit selection and equal opportunity for employment in future hiring of personnel working in the district courts.

**District Meetings Ease Tension**

Meanwhile, some judicial districts are using districtwide meetings of judges and court support staff as a way to open lines of communication on personnel issues and to improve court operations. A model program has been operating in the Fifth Judicial District, where clerks and judges meet annually to discuss ways to improve judicial services to the public.

But some observers feel that cooperation has its limits, and that only a Supreme Court decision will resolve the controversy. As Trial Court Financing Committee member and Boise Police Chief James Montgomery observed, "Problems usually don't occur where there is a cooperative spirit; however, where statutes are not clear, the law of averages means you will have disputes eventually over lines of authority."



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